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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,613	10/03/2003	Jamie Garroch	NEC P15578	9435
27667	7590	07/14/2005	EXAMINER	
HAYES, SOLOWAY P.C. 130 W. CUSHING STREET TUCSON, AZ 85701			SANTIAGO CORDERO, MARVELISSE	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/678,613	GARROCH, JAMIE	
Examiner	Art Unit		
Marivelisse Santiago-Cordero	2687		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 October 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-6 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5)  Claim(s) \_\_\_\_\_ is/are allowed.  
6)  Claim(s) 1-6 is/are rejected.  
7)  Claim(s) \_\_\_\_\_ is/are objected to.  
8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 03 October 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/03/2003.

4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_ .  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_ .

**DETAILED ACTION**

1. Claims 1-6 are pending in the application. Applicant's amendments to the claims have been considered. The Examiner notes that applicant cancelled claim 7, however, in the Amendments to the Claims, claim 7 is labeled as original. Therefore, applicant is required to properly label claim 7 as cancelled. For purposes of examination, claim 7 has been treated as cancelled.

*Priority*

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

*Information Disclosure Statement*

3. The references cited in the Information Disclosure Statement (IDS) filed on October 10, 2003 have been considered.

*Specification*

4. The disclosure is objected to because of the following informalities: the term "cursor 100" (page 5, line 3) should be replaced with --cursor 110--.

Appropriate correction is required.

*Claim Rejections - 35 USC § 102*

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Prior et al. (hereinafter “Prior”; GB 2330982; cited in IDS).

Regarding claim 1, Prior discloses a portable electronic device (Abstract; Figs. 6-7) comprising a display on a front face of the device (Abstract) on which selectable functions may be displayed (Abstract; page 2, lines 5-6) and selected by a user (page 2, lines 5-9) and a touch pad provided on a rear face of the device for a user to select the functions (Abstract; page 2, lines 5-6).

Regarding claim 2, Prior discloses a portable electronic device according to claim 1 (see above) in which the touch pad is positioned substantially directly behind the display (Abstract; Figs. 6-7).

Regarding claim 3, Prior discloses a portable electronic device according to claim 1 (see above) in which a cursor is presented on the display and is controlled by the user using the touch pad (page 2, lines 3-4).

Regarding claim 4, Prior discloses a portable electronic device according to claim 1 (see above) in which the function which is available for selection is highlighted (page 2, lines 6-9).

Regarding claim 5, Prior discloses a portable electronic device according to claim 1 (see above) in which the touch pad has the same dimensions as the display (Abstract; Figs. 6-7; note that the areas of the touchpad mirrors the areas of the display).

7. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirk (GB 2344905; cited in IDS).

Regarding claim 1, Kirk discloses a portable electronic device (Abstract; Figs. 1) comprising a display on a front face of the device (Abstract) on which selectable functions may

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be displayed (Abstract; note the application icons; Fig. 1) and selected by a user (Abstract) and a touch pad provided on a rear face of the device for a user to select the functions (Abstract; Fig. 2, reference numeral 4).

Regarding claim 6, Kirk discloses a portable electronic device according to claim 1 (see above) in which the device includes a selection button to confirm selection of the selected function (Abstract; Fig. 1, reference numeral 5; page 4, lines 8-12).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marivelisse Santiago-Cordero whose telephone number is (571) 272-7839. The examiner can normally be reached on Monday through Friday from 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RAFAEL PEREZ-GUTIERREZ  
PATENT EXAMINER  
7/11/05